IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7811 of 2007()

CRIME NO.33 OF 2005 OF CHERUTHURUTHY POLICE STATION

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: PETITIONER/1ST ACCUSED:

SHEREEF, S/O. MUHAMMED BASHEER,
AGED 23 YEARS, KAPPURAYIL HOUSE, BEEVIPADY DESOM,
VELIYAMKADU, PONNANI.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
(SUB INSPECTOR OF POLICE, CHERUTHURUTHY POLICE
STATION, CRIME NO.33/2005) REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7811 of 2007

Dated this the 19th day of December, 2007

ORDER

Application for regular bail. Petitioner is the 2nd accused in a crime registered under Section 394 I.P.C. The crux of the allegations raised against the petitioner is that he along with the co-accused was travelling in a motor cycle and they in furtherance of their common intention snatched a gold chain worn by the defacto complainant/victim. The alleged incident took place on 18.01.05. The petitioner was later arrested in connection with some other crime. Thereafter his arrest has been noted in the present crime also. He continues in custody from 22.10.07. Investigation is in progress. The co-accused (1st accused) has not been arrested yet. Investigation is in progress.

2. The learned counsel for the petitioner submits that the petitioner who has remained in custody from 22.10.07 may now be enlarged on bail subject to appropriate terms and conditions.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner is involved in other crimes also. The nature of allegations may be

taken into consideration. The fact that the co-accused has not been apprehended yet may also be taken note of. It is too early to consider the release of the petitioner on bail now, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. I take note of the submission of the learned Public Prosecutor that the section of the crime shown in the order of Sessions Judge is not correct and the crime is registered under Section 394 r/w 34 I.P.C. I am not satisfied that the petitioner deserves to be enlarged on bail at this stage in a serious crime like this. Co-accused has not been arrested so far. I am unable to agree that the petitioner is entitled to the invocation of the discretion under Section 439 Cr.P.C at this stage.

5. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioner shall be at liberty to move this Court for bail again at a later stage of the investigation - not, at any rate, prior to 03.01.08. The investigators shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-